

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellant,

v

DALE ROSS ROOSE,

Defendant-Appellee.

UNPUBLISHED

January 27, 2005

No. 251034

Wayne Circuit Court

LC No. 03-007040-01

Before: Zahra, P.J., and Neff and Cooper, JJ.

PER CURIAM.

The prosecutor appeals as of right from a circuit court order of dismissal entered following the grant of defendant's motion to suppress. We reverse and remand.

Defendant was charged with operating a motor vehicle under the influence of intoxicating liquor, third offense, MCL 257.625(8), driving on a suspended license, MCL 257.904(3)(a), and driving with expired plates, MCL 257.255(1). The trial court granted defendant's motion to suppress, finding that the traffic stop that led to the filing of the charges was not supported by probable cause.

This Court reviews a trial court's factual findings at a suppression hearing for clear error, but reviews the ultimate ruling on a motion to suppress de novo. *People v Marcus Davis*, 250 Mich App 357, 362; 649 NW2d 94 (2002). The trial court's factual findings are clearly erroneous if, after review of the record, this Court is left with a definite and firm conviction that a mistake has been made. *Id.*

An officer may stop a vehicle if he has probable cause to believe a traffic violation has occurred or was occurring. *Id.* The vehicle came to the officer's attention because he recognized the passenger. The officer then ran the license plate through the LEIN system. A police officer may run a computer check on a license plate in plain view even if the vehicle has not violated any traffic laws and there is no other information to suggest that a crime has been or is being committed. In other words, "there is no probable cause or articulable suspicion requirement to run a computer check of a license plate number in which there is no expectation of privacy." *People v Jones*, 260 Mich App 424, 427-428; 678 NW2d 627 (2004). A police officer may rely on information obtained from LEIN in determining whether a crime has been committed. *People v Freeman*, 240 Mich App 235, 236-237; 612 NW2d 824 (2000).

The computer check showed that the vehicle was registered to a man named Dale Roose and that his driver's license had been revoked. It is a misdemeanor for a person to operate a vehicle on the road if the person's driver's license has been suspended or revoked. MCL 257.904(1). In the absence of any evidence to the contrary, a police officer may assume that a car is being driven by its registered owner. *Jones, supra* at 428. Therefore, the officer had a reasonable suspicion that the vehicle was being driven by a person whose driver's license had been revoked and could conduct an investigatory stop. Upon stopping the van, the officer noted that defendant's breath and body smelled of alcohol. The strong smell of intoxicants on a driver's breath may give rise to a reasonable suspicion that the driver has recently consumed alcohol, which may have affected the driver's ability to operate the vehicle, and thus the officer may order the driver to perform field sobriety tests. *People v Rizzo*, 243 Mich App 151, 161; 622 NW2d 319 (2000). Because the traffic stop and drunk driving investigation were both supported by reasonable suspicion, the trial court erred in granting defendant's motion.

Reversed and remanded for reinstatement of the charges against defendant and for further proceedings consistent with this opinion. Jurisdiction is not retained.

/s/ Brian K. Zahra
/s/ Janet T. Neff
/s/ Jessica R. Cooper